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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,439	10/06/2005	Ryoji Asada	28951.5415	8928
27890	7590	12/31/2008	EXAMINER	
STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036				CHEN, CHIA WEI A
ART UNIT		PAPER NUMBER		
2622				
MAIL DATE		DELIVERY MODE		
12/31/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/552,439	ASADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	CHIA-WEI A. CHEN	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 September 2008.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) 11-13 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 October 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I (claims 1-10) in the reply filed on Sept. 2, 2008 is acknowledged. The traversal is on the ground(s) that the subject matter of all of claims 1-13 is sufficiently related that a thorough and complete search for the subject matter of the elected claims would necessarily encompass a thorough and complete search for the subject matter of the non-elected claims. This is not found persuasive because the subject matter of each of the groups includes material that is classified in entirely different subclasses. Group II includes a camera having an imaging signal state decision section for deciding an image state of an imaging signal system outputted from the imaging section, which would require a search in class 348, subclass 161. Thus, the search and examination of the entire application could not be made without serious burden to the examiner.

2. Claims 11-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Sept. 2, 2008.

The requirement is still deemed proper and is therefore made FINAL

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Bean (US 2003/0146981).

Claim 1, Bean teaches an imaging apparatus in Fig. 3 comprising:

a control setting section (mode switch to invoke a variable frame rate video capture mode 124) for setting a frame mode of an imaging section or a photographing parameter of the imaging section (paragraph 0025),  
an automatic switch setting section (fps subroutine 172) in which setting contents to be automatically switched in the control setting section and a set time for implementing the contents are set (different frame rates corresponding to different circumstances are specified in the fps subroutine 172; paragraph 0027), and  
a system control section (controller 134) which detects an operation of an operation switch (variable frame-rate trigger 128) and automatically switches the setting contents of the control setting section according to a setting of the automatic switch

setting section (variable-frame-rate-trigger 128 may be operated by a user to vary the frame rate of video while video is being captured; paragraph 0021).

Claim 2, Bean teaches wherein the system control section controls the control setting section in such a manner as to detect an operation of the operation switch (trigger 128) and switch at least one of the frame mode and the photographing parameter according to the setting of the automatic switch setting section (paragraph 0021).

Claim 3, Bean teaches wherein the system control section controls the control setting section in such a manner as to detect an operation of the operation switch (trigger 128) and switch at least one of the frame mode and the photographing parameter according to the setting of the automatic switch setting section (changes frame rate according to fps subroutine section 172), detects that the operation switch is operated again in a set time of a current setting, and forcibly performs automatic switching to subsequent setting contents of the automatic switch setting section (when operation of trigger 128 is changed, fps subroutine 172 sets a new video capture frame rate; paragraph 0027).

Claim 4, Bean teaches wherein the system control section detects an operation of the operation switch (trigger 128) and automatically switches the frame mode and the photographing parameter in series in a predetermined order (paragraph 0021, 0027).

Claim 5, Bean teaches wherein the system control section detects an operation of the operation switch (trigger 128) and automatically switches the frame mode and the photographing parameter in parallel in a predetermined order according to setting contents of the automatic switch setting section (paragraph 0021, 0027).

Claim 7, Bean teaches a display section (display 150) for displaying a state of a current frame mode or photographing parameter (user may be provided with feedback in the form of indicia displayed on the camera display; paragraph 0022).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bean in view of Ip (US 2004/0033051).

Claim 8, Bean teaches the imaging apparatus according to claim 3, but does not teach: a memory section for storing history of corrections made to a set time when the operation switch is operated again.

Ip teaches a memory section (frame rate recording medium 15) for storing history of corrections made to a set time when the operation switch is operated again (frame rate variations are recorded to the recording medium 15 whenever the frame rate of captured video is changed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the frame rate recording mechanism of Ip with the imaging apparatus of Bean in order to make unauthorized duplication of the captured video very difficult if not impossible. (See paragraph 0020 of Ip.)

8. Claims 9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Bean in view of Ip (US 2004/0033051) and further in view of Soya (US 7,394,484).

Claim 9. Bean teaches the imaging apparatus according to claim 3, but does not teach a memory section for storing history of corrections made to a set time when the operation switch is operated again, wherein the system control section can replace the set time of the automatic switch setting section with another according to a record of the memory section.

Ip teaches a memory section (frame rate recording medium 15) for storing history of corrections made to a set time when the operation switch is operated again (frame rate variations are recorded to the recording medium 15 whenever the frame rate of captured video is changed).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the frame rate recording mechanism of Ip with the imaging apparatus of Bean in order to make unauthorized duplication of the captured video very difficult if not impossible. (See paragraph 0020 of Ip.)

However, Ip does not teach wherein the system control section can replace the set time of the automatic switch setting section with another according to a record of the memory section.

Soya teaches wherein a system control section can replace the set time of the automatic switch setting section with another according to a record of a memory section (photographing plan memory 13). (The sequence of variable frame rates of a video capture may be predetermined using a table as found in Figs. 3 and 8 of Soya. The frame rates are automatically changed as a certain number of frames in each stage are captured; col. 14, lines 47-63, col. 11, lines 1-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the predetermined frame rate sequences of Soya with the imaging apparatus of Bean in view of Ip in order to obtain clear image information by varying the exposure time a plurality of times before production photography. (See col. 2, lines 4-11 of Soya.)

Claim 10, Bean teaches the imaging apparatus according to claim 3;

Ip teaches a memory section (frame rate recording medium 15) for storing history of corrections made to a set time when the operation switch is operated again (frame

rate variations are recorded to the recording medium 15 whenever the frame rate of captured video is changed) and a recording/reproducing section which records and reproduces an imaging signal (recording means 12 for recording the image onto the image recording medium 13, film projector and lens 21; paragraph 0025-0026); history information of the memory section is recorded with the imaging signal by the recording/reproducing section (paragraph 0025).

Soya teaches wherein the system control section can replace the set time of the automatic switch setting section with another according to a record of the memory section (The sequence of variable frame rates of a video capture may be predetermined using a table as found in Figs. 3 and 8 of Soya. The frame rates are automatically changed as a certain number of frames in each stage are captured; col. 14, lines 47-63, col. 11, lines 1-60).

### ***Allowable Subject Matter***

9. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHIA-WEI A. CHEN whose telephone number is

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(571)270-1707. The examiner can normally be reached on Monday - Friday, 7:30 - 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan V Ho/  
Primary Examiner, Art Unit 2622

/C. A. C./  
Examiner, Art Unit 2622